



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3612

Introduced 2/24/2011, by Rep. Renée Kosel

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. Adds the Corruption Influenced and Criminal Organizations Law to the Code. Provides that it is unlawful for any person: (1) who is employed by or associated with any enterprise, knowingly to conduct or participate, directly or indirectly, in such enterprise's affairs through either a pattern of predicate activity or the collection of unlawful debt; or (2) knowingly to acquire or maintain, directly or indirectly, through either a pattern of predicate activity or the collection of unlawful debt, any interest in, or control of, to any degree, any enterprise, real property, or personal property of any character, including money. Defines "pattern of predicate activity". Provides criminal penalties and for seizure and forfeiture of property derived from the pattern of predicate activity. Amends the Code of Criminal Procedure of 1963. Authorizes the court to issue an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit predicate activity. Amends the Statewide Grand Jury Act. Permits the convening of a Statewide Grand Jury to investigate and return indictments for violations of the Corruption Influenced and Criminal Organizations Law.

LRB097 08527 RLC 50735 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G. CORRUPTION INFLUENCED AND CRIMINAL ORGANIZATIONS

8 LAW

9 (720 ILCS 5/33G-1 new)

10 Sec. 33G-1. Short title. This Article may be cited as the
11 Corruption Influenced and Criminal Organizations Law (or
12 "CICO").

13 (720 ILCS 5/33G-2 new)

14 Sec. 33G-2. Legislative declaration. The substantial harm,
15 public and private, inflicted on the people and economy of this
16 State by pervasive public corruption, violent street gangs,
17 organized sexual predators and hate crime offenders,
18 identity-theft rings, criminal commercial schemes, and all
19 other forms of enterprise criminality, is legitimately a matter
20 of grave concern to the people of this State who have a basic
21 right to be protected from such criminal activity and to be

1 given adequate criminal and civil remedies to redress its
2 harms. Whereas the current laws of this State provide
3 inadequate criminal and civil remedies, procedures and
4 punishments, the Illinois General Assembly hereby gives the
5 supplemental remedies of the Corruption Influenced and
6 Criminal Organizations Law full force and effect under law for
7 the common good of this State and its people.

8 (720 ILCS 5/33G-3 new)

9 Sec. 33G-3. Definitions. As used in this Article:

10 (a) "Another state" means any state of the United States
11 (other than the State of Illinois), or the District of
12 Columbia, or the Commonwealth of Puerto Rico, or any territory
13 or possession of the United States, or any political
14 subdivision, or any department, agency, or instrumentality
15 thereof.

16 (b) "Enterprise" includes (1) any individual, sole
17 proprietorship, partnership, corporation, association,
18 business or charitable trust or other legal entity, and (2) any
19 union or group of individuals, sole proprietorships,
20 partnerships, corporations, associations, business or
21 charitable trusts or other legal entities, or any combination
22 thereof, associated in fact although not itself a legal entity.
23 An association in fact must be held together by a common
24 purpose, apart from an individual purpose or purposes, but it
25 need not be hierarchically structured or otherwise specially

1 configured. As used in this Article, "enterprise" includes
2 licit and illicit enterprises, as well as the State of Illinois
3 and any political subdivision, or any department, agency, or
4 instrumentality thereof.

5 (c) "Predicate activity" means:

6 (1) any act, attempt, endeavor, solicitation, or
7 conspiracy that is punishable by imprisonment for more than
8 one year, and constitutes a violation or violations of any
9 of the following provisions of the laws of the State of
10 Illinois (as amended or revised as of the date the activity
11 occurred or, in the instance of a continuing offense, the
12 date that charges under this Article are filed in a
13 particular matter in the State of Illinois):

14 (i) Section 7 of the Currency Reporting Act
15 (financial structuring);

16 (ii) Illinois Vehicle Code: Section 4-103
17 (possession of stolen vehicles), 4-103.1 (stolen
18 vehicle conspiracy), 4-103.2 (aggravated possession of
19 stolen vehicles), 4-103.3 (organizer of a stolen
20 vehicle conspiracy), 4-104 (stolen vehicle documents),
21 4-105 (altered vehicle documents), or 4-105.1 (false
22 vehicle documents);

23 (iii) Criminal Code of 1961: Section 8-1
24 (solicitation), 8-1.1 (solicitation of murder), 8-1.2
25 (solicitation of murder for hire), 8-2 (conspiracy),
26 8-4 (attempt), 9-1 (first degree murder), 9-3.1

1 (concealment of homicidal death), 9-3.3 (drug-induced
2 homicide), 10-1 (kidnaping), 10-2 (aggravated
3 kidnaping), 10-3 (unlawful restraint), 10-3.1
4 (aggravated unlawful restraint), 10-4 (forcible
5 detention), 10-5 (child abduction), 10-7 (aiding and
6 abetting child abduction), 10A-10 (trafficking of
7 persons and involuntary servitude), 11-6 (indecent
8 solicitation of a child), 11-9.1 (sexual exploitation
9 of a child), 11-9.2 (custodial sexual misconduct),
10 11-15.1 (soliciting for a juvenile prostitute), 11-16
11 (pandering), 11-17.1 (keeping a place of juvenile
12 prostitution), 11-18.1 (patronizing a juvenile
13 prostitute), 11-19.1 (juvenile pimping and aggravated
14 juvenile pimping), 11-19.2 (exploitation of a child),
15 12-2 (aggravated assault), 12-4 (aggravated battery),
16 12-4.1 (heinous battery), 12-4.2 (aggravated battery
17 with a firearm), 12-4.2-5 (aggravated battery with a
18 machine gun or silencer-equipped firearm), 12-4.5
19 (tampering with food, drugs or cosmetics), 12-4.7
20 (drug-induced infliction of great bodily harm), 12-6
21 (intimidation), 12-6.1 (compelling organization
22 membership of persons), 12-6.2 (aggravated
23 intimidation), 12-6.4 (criminal street gang
24 recruitment), 12-7.1 (hate crime), 12-7.3 (stalking),
25 12-7.4 (aggravated stalking), 12-7.5 (cyberstalking),
26 12-9 (threatening public officials), 12-11 (home

1 invasion), 12-11.1 (vehicular invasion), 12-13
2 (criminal sexual assault), 12-14 (aggravated criminal
3 sexual assault), 12-14.1 (predatory criminal sexual
4 assault of a child), 12-16 (aggravated criminal sexual
5 abuse), 12-20 (sale of body parts), 16-1 (theft), 16-7
6 (piracy of recorded sounds or images), 16-16.1
7 (aggravated possession of a stolen firearm), 16D-4
8 (aggravated computer tampering), 16D-5 (computer
9 fraud), 16G-15 (identity theft), 16G-20 (aggravated
10 identity theft), 16H-60 (financial crime), 17-3
11 (forgery), 17-5 (deceptive collection practices), 17-6
12 (state benefits fraud), 17-9 (public aid wire fraud),
13 17-10 (public aid mail fraud), 17-15 (fraudulent
14 conveyance), 17-24 (fraudulent schemes and artifices),
15 17-25 (use of scanning devices to defraud), 17-26
16 (corporate misconduct), 17-27 (fraud in insolvency),
17 17-29 (fraudulent disadvantaged business contracts),
18 18-1 (robbery), 18-2 (armed robbery), 18-3 (vehicular
19 hijacking), 18-4 (aggravated vehicular hijacking),
20 18-5 (aggravated robbery), 19-1 (burglary), 19-2
21 (possession of burglary tools), 19-3 (residential
22 burglary), 20-1 (arson), 20-1.1 (aggravated arson),
23 20-1.2 (residential arson), 20-1.3 (place of worship
24 arson), 20-2 (possession of explosives), 20.5-5
25 (causing a catastrophe), 20.5-6 (possession of a
26 deadly substance), 24-1.2 (aggravated discharge of a

1 firearm), 24-1.2-5 (aggravated discharge of a machine
2 gun or silencer equipped firearm), 24-1.6 (aggravated
3 unlawful use of a weapon), 24-2.2 (unlawful
4 ammunition), 24-3 (unlawful sale of firearms), 24-3.2
5 (unlawful discharge of firearm projectiles), 24-3A
6 (gunrunning), 24-5 (defacing a firearm), 28-1.1
7 (syndicated gambling), 29-1 (offering a sports bribe),
8 29-2 (accepting a sports bribe), 29A-1 (offering a
9 commercial bribe), 29A-2 (accepting a commercial
10 bribe), 29B-1 (money laundering), 29D-15 (soliciting
11 support for terrorism), 29D-20 (making a terrorist
12 threat), 29D-25 (falsely making a terrorist threat),
13 29D-30 (terrorism), 29D-35 (hindering prosecution of
14 terrorism), 30-1 (treason), 31-4 (obstruction of
15 justice), 31A-1.2 (unauthorized contraband in a penal
16 institution), 32-2 (perjury), 32-3 (subornation of
17 perjury), 32-4 (communication with jurors or
18 witnesses), 32-4a (harassment of jurors or witnesses),
19 32-4b (juror bribery), 32-5 (false personation of a
20 government official), 32-5.1 (false personation of a
21 peace officer), 32-5.1-1 (false personation of a peace
22 officer with a deadly weapon), 32-5.2 (aggravated
23 false personation of a peace officer), 32-5.4 (false
24 personation of a fire fighter), 32-5.5 (aggravated
25 false personation of a firefighter), 33-1 (bribery),
26 33A-3 (armed violence), 33C-1 (fraudulent

1 certification of disadvantageded business), 33C-2 (false
2 statement regarding a disadvantageded business), 33C-3
3 (obstruction of a disadvantageded business
4 investigation), 33C-4 (obtaining fraudulent payments
5 for a disadvantageded business), 33E-3 (bid-rigging),
6 33E-4 (bid-rotating), 33E-5 (unlawful acquisition or
7 disclosure of bid information), 33E-6 (interference
8 with contract submission or award), 33E-7 (kickbacks),
9 33E-8 (bribery of inspectors), 33E-9 (unlawful change
10 orders), 33E-11 (unlawful certification), 33E-14
11 (false statements on vendor applications), 33E-15
12 (false entries), 33E-16 (misapplication of funds),
13 33E-17 (unlawful participation), 33E-18 (unlawful
14 stringing of bids), 39-1 (criminal usury), 46-1
15 (insurance fraud), 46-1.1 (fraud on a governmental
16 entity), or 46-2 (aggravated insurance fraud);

17 (iv) Illinois Credit Card and Debit Card Act:
18 Section 3 (false statement in procuring a credit card),
19 7 (obtaining or transferring a credit card with intent
20 to defraud), 8 (credit card fraud), 12 (use of account
21 information with intent to defraud), 15 (alteration of
22 a credit card), 16 (counterfeit credit card), 17
23 (unlawful possession of credit card machinery), 17.01
24 (fraudulent deposit), or 17.02 (fraudulent
25 transmission);

26 (v) Cannabis Control Act: Section 5 (manufacture

1 or delivery of cannabis), 5.1 (cannabis trafficking),
2 8 (production or possession of cannabis plants);

3 (vi) Illinois Controlled Substances Act: 401
4 (manufacture or delivery of a controlled substance),
5 401.1 (controlled substance trafficking), 405
6 (calculated criminal drug conspiracy), 405.1 (criminal
7 drug conspiracy), 405.2 (streetgang criminal drug
8 conspiracy), or 406.1 (unlawful use of buildings to
9 produce controlled substances);

10 (vii) Methamphetamine Control and Community
11 Protection Act: Section 15 (methamphetamine
12 manufacturing) or 55 (methamphetamine delivery); or

13 (viii) Home Repair Fraud Act: Section 3 (home
14 repair fraud) or 5 (aggravated home repair fraud); or

15 (2) any act, attempt, endeavor, solicitation, or
16 conspiracy involving murder, kidnaping, gambling, arson,
17 robbery, bribery, extortion, dealing in obscene matter, or
18 dealing in a controlled substance or listed chemical (as
19 defined under the laws of the United States in Title 21,
20 United States Code, Section 802), that is chargeable under
21 the laws of Another State and punishable by imprisonment
22 for more than one year. Under this Article, "chargeable"
23 means the act, attempt or endeavor, solicitation, or
24 conspiracy constitutes an offense under the substantive
25 criminal law of Another State, as such laws exist as of the
26 date the activity occurred or, in the instance of a

1 continuing offense, the date that charges under this
2 Article are filed in a particular matter in the State of
3 Illinois, but it does not include any procedural defenses
4 under the laws of Another State; or

5 (3) any act, attempt, endeavor, solicitation, or
6 conspiracy that is chargeable under any of the provisions
7 referenced in Title 18, United States Code, Sections
8 1961(1)(B) through (G). Under this Article, "chargeable"
9 means the act, attempt or endeavor, solicitation, or
10 conspiracy constitutes an offense under the referenced
11 provisions, as such provisions exist as of the date the
12 activity occurred or, in the instance of a continuing
13 offense, the date that charges under this Article are filed
14 in a particular matter in the State of Illinois, but it
15 does not include any procedural defenses under the laws of
16 the United States.

17 (d) "Pattern of predicate activity" means: (1) at least 2
18 occurrences of predicate activity related to the affairs of an
19 enterprise in the form of an act, attempt, endeavor,
20 solicitation, or conspiracy, or any combination thereof; and
21 (2) at least one of which falls after the effective date of
22 this Article, and the last of which falls within 10 years
23 (excluding any period of imprisonment) after the prior
24 occurrence of predicate activity.

25 (e) "Unlawful debt" means a debt (1) incurred or contracted
26 in the business of gambling activity that was in violation of

1 the law of the United States, or the State of Illinois or
2 Another State, or any political subdivision thereof, and that
3 is unenforceable under Federal law, or the laws of the State of
4 Illinois or Another State, in whole or in part as to principal
5 or interest, or (2) that was incurred in connection with the
6 business of lending money or other things of value in violation
7 of the laws of the United States, or the laws of the State of
8 Illinois or Another State, or a political subdivision thereof,
9 at a rate usurious under Federal law, or the laws of the State
10 of Illinois or Another State, where the usurious rate is at
11 least twice the enforceable rate.

12 (f) "Unlawful death" includes the following offenses under
13 the Criminal Code of 1961: Section 9-1 (first degree murder),
14 9-2 (second degree murder), 9-3 (voluntary manslaughter and
15 reckless homicide), or 9-3.2 (involuntary manslaughter).

16 (g) "Corruption prosecutor" means any Illinois State's
17 Attorney, or any of his or her representatives so designated by
18 such Illinois State's Attorney, under the laws or regulations
19 of the State of Illinois or any political subdivision thereof,
20 who is charged with the duty of enforcing or carrying into
21 effect this Article. "Corruption prosecutor" also includes the
22 Attorney General of the State of Illinois upon the granting of
23 an application pursuant to the Statewide Grand Jury Act.

24 (h) "Corruption investigator" means any peace officer or
25 law enforcement agent of the United States, Another State, the
26 State of Illinois, or any political subdivision thereof, or any

1 member or attorney of a law enforcement office, agency,
2 commission, or other entity that is empowered to investigate or
3 prosecute any criminal violation of the laws of the United
4 States, another state, the State of Illinois, or any political
5 subdivision thereof.

6 (i) "Corruption investigation" means any inquiry conducted
7 by any corruption prosecutor or corruption investigator for the
8 purpose of ascertaining whether, or to what degree, any person
9 has been involved in any violation of this Article, or any
10 inquiry concerning any final order, judgment, or decree of any
11 court, duly entered in any case or proceeding arising under
12 this Article.

13 (720 ILCS 5/33G-4 new)

14 Sec. 33G-4. Prohibited activities. Under this Article:

15 (a) It is unlawful for any person: (1) who is employed by
16 or associated with any enterprise, knowingly to conduct or
17 participate, directly or indirectly, in such enterprise's
18 affairs through either a pattern of predicate activity or the
19 collection of unlawful debt; or (2) knowingly to acquire or
20 maintain, directly or indirectly, through either a pattern of
21 predicate activity or the collection of unlawful debt, any
22 interest in, or control of, to any degree, of any enterprise,
23 real property, or personal property of any character, including
24 money.

25 (b) It is unlawful for any person knowingly to attempt to

1 violate, or knowingly conspire to violate, this Article.
2 Notwithstanding any other provision of law, in any prosecution
3 for a conspiracy to violate this Article, no person may be
4 convicted of such conspiracy unless an overt act in furtherance
5 of such agreement is alleged and proved to have been committed
6 by him or by a coconspirator. The commission of such overt act
7 need not itself constitute predicate activity underlying the
8 specific violation of this Article.

9 (c) The application of a remedy under this Article shall
10 not preclude the application of other criminal, civil or
11 administrative remedies under this Article or any other
12 provision of law. Any person prosecuted under this Article may
13 be convicted and sentenced either: (1) for the offense of
14 attempting or conspiring to violate this Article, and for any
15 other particular offense or offenses that may constitute an
16 object of the attempt or conspiracy to violate this Article; or
17 (2) for the substantive offense of violating this Article, and
18 for any other particular offense or offenses that may
19 constitute predicate activity underlying a violation of this
20 Article.

21 (d) It is not a defense to any violation of this Article
22 that a defendant has been formerly prosecuted for an offense
23 based upon the same facts, within the meaning of Section 3-4 of
24 this Code, that thereafter serves as any portion of the
25 underlying predicate activity in a subsequent prosecution for
26 any violation of this Article, unless the former prosecution

1 was terminated by a final order or judgment, even if entered
2 before trial, which required a determination inconsistent with
3 any fact necessary to a conviction in the subsequent
4 prosecution under this Article.

5 (720 ILCS 5/33G-5 new)

6 Sec. 33G-5. Penalties. Under this Article, notwithstanding
7 any other provision of law:

8 (a) Any violation of this Article shall be sentenced as a
9 Class X felony with a term of imprisonment of not less than 6
10 years and not more than 30 years, and the sentence imposed
11 shall also include restitution, and/or a criminal fine, jointly
12 and severally, up to \$250,000 or twice the gross amount of any
13 intended loss of the violation, if any, whichever is higher.

14 (b) Wherever the unlawful death of any person or persons
15 results as a necessary or natural consequence of any violation
16 of this Article, the sentence imposed on the defendant shall
17 include an enhanced term of imprisonment of at least 25 years
18 up to natural life, in addition to any other penalty imposed by
19 the court, provided: (1) the death or deaths were reasonably
20 foreseeable to the defendant to be sentenced; and (2) the death
21 or deaths occurred when such defendant was otherwise engaged in
22 the violation of this Article as a whole.

23 (c) A sentence of probation, periodic imprisonment,
24 conditional discharge, impact incarceration or county impact
25 incarceration, court supervision, withheld adjudication, or

1 any pretrial diversionary sentence or suspended sentence, is
2 not authorized for a violation of this Article.

3 (720 ILCS 5/33G-6 new)

4 Sec. 33G-6. Remedial proceedings, procedures, and
5 forfeiture. Under this Article:

6 (a) The courts shall have jurisdiction to prevent and
7 restrain violations of this Article by issuing appropriate
8 orders, including: (1) ordering any person to disgorge illicit
9 proceeds obtained by a violation of this Article or divest
10 himself or herself of any interest, direct or indirect, in any
11 enterprise or real or personal property of any character,
12 including money, obtained, directly or indirectly, by a
13 violation of this Article; (2) imposing reasonable
14 restrictions on the future activities or investments of any
15 person or enterprise, including prohibiting any person or
16 enterprise from engaging in the same type of endeavor as the
17 person or enterprise engaged in, that violated this Article; or
18 (3) ordering dissolution or reorganization of any enterprise,
19 making due provision for the rights of innocent persons.

20 (b) The United States, Another State, or the State of
21 Illinois, or any political subdivision, or any department,
22 agency, or instrumentality thereof, or any person (subject to a
23 substantially equal involvement defense) or such person's
24 estate, injured in his or her person, business, or property by
25 reason of a violation, directly or indirectly, of this Article,

1 may sue in any appropriate court and shall recover threefold
2 any damages sustained and the costs of the suit, including a
3 reasonable attorney's fee at the trial and appellate level, and
4 any equitable remedy justice requires, including injunctions,
5 declaratory judgments, divestiture, accounting or
6 disgorgement. Pending final determination thereof, the court
7 may at any time enter such restraining orders or prohibitions,
8 or take such other actions, including the acceptance of
9 satisfactory performance bonds, as it shall deem proper.
10 Satisfactory performance bonds shall not be required of the
11 United States, Another State, or the State of Illinois, or any
12 political subdivision, or any department, agency, or
13 instrumentality thereof. The existence of a criminal
14 conviction or corruption investigation for the alleged
15 violation of this Article is not a prerequisite to any
16 proceeding hereunder, but a final judgment entered in favor of
17 the People of the State of Illinois in any criminal proceeding
18 brought under this Article shall estop the defendant in the
19 criminal case from denying the material allegations of the
20 criminal violation in any subsequent civil or administrative
21 proceeding brought under this Article.

22 (c) Notwithstanding any other provision of law, the court
23 shall, for any violation of this Article, order criminal or
24 civil forfeiture, in personam or in rem, jointly and severally,
25 of any interest or property the person has acquired or
26 maintained in violation of this Article, or any interest in,

1 security of, or claim against, or property or contractual right
2 of any kind affording a source of influence of any degree over,
3 any enterprise that the person has established, operated,
4 controlled, conducted, or participated in, in violation of this
5 Article, as well as any property constituting, or derived from,
6 any proceeds, including money, that the person obtained,
7 directly or indirectly, from predicate activity or unlawful
8 debt collection in violation of this Article. Any court, in
9 imposing sentence on such person, shall order, in addition to
10 any other sentence imposed pursuant to this Article, that the
11 person forfeit to the State of Illinois all property described
12 herein. The property and interests subject to criminal or civil
13 forfeiture under this Article include any real property,
14 including things growing on, affixed to, and found in land, and
15 any tangible and intangible personal property, including
16 rights, privileges, interests, claims, and securities. All
17 right, title, and interest in property described in this
18 Article vests in the State of Illinois upon the inception of
19 the illicit agreement or commission of any act otherwise giving
20 rise to forfeiture under this Article. The court shall further
21 order the criminal or civil forfeiture of any other property of
22 the defendant up to the value of the property described herein
23 if, as a result of any act or omission of the defendant, such
24 property subject to forfeiture: (1) cannot be located upon the
25 exercise of due diligence; (2) has been transferred or sold to,
26 or deposited with, a third party; (3) has been placed beyond

1 the jurisdiction of the court; (4) has been substantially
2 diminished in value; or (5) has been commingled with other
3 property that cannot be divided without difficulty.

4 (d) Any property subject to criminal or civil forfeiture
5 under this Article that is subsequently transferred to a person
6 other than a defendant may be the subject of a special verdict
7 of forfeiture and thereafter shall be ordered forfeited to the
8 State of Illinois, unless the transferee petitions the court
9 and establishes in a hearing before the court, without a jury,
10 that he or she is a bona fide purchaser for value of such
11 property who at the time of purchase was reasonably without
12 cause to believe that the property was subject to forfeiture
13 under this Article. The petition shall be signed by the
14 petitioner under penalty of perjury and shall set forth the
15 nature and extent of the petitioner's right, title, or interest
16 in the property, the time and circumstances of the petitioner's
17 acquisition of the right, title, or interest in the property,
18 any additional facts supporting the petitioner's claim, and the
19 relief sought. The hearing on the petition shall, to the extent
20 practicable and consistent with the interests of justice, be
21 held as soon as possible after completion of the criminal
22 proceedings, if any, pursuant to this Article. The court may
23 consolidate the hearing on the petition with a hearing on any
24 other petition filed by a person other than the defendant under
25 this Article. Following the court's disposition of all
26 petitions filed under this Article, or if no such petitions are

1 filed then within 90 days of the completion of criminal or
2 civil proceedings pursuant to this Article, the State of
3 Illinois shall have clear title to property that is the subject
4 of the order of forfeiture and may warrant good title to any
5 subsequent purchaser or transferee. In addition to testimony
6 and evidence presented at the hearing, the court shall consider
7 the relevant portions of the record of any criminal case that
8 resulted in, or relates to, the order of forfeiture. After the
9 hearing, the court shall amend the order of forfeiture if the
10 court determines that the petitioner has established by a
11 preponderance of the evidence that:

12 (1) the petitioner has a legal right, title, or
13 interest in the property, and such right, title, or
14 interest renders the order of forfeiture invalid in whole
15 or in part because the right, title, or interest was vested
16 in the petitioner rather than the defendant or was superior
17 to any right, title, or interest of the defendant at the
18 time of the commission of the acts that gave rise to the
19 forfeiture of the property under this Article; or

20 (2) the petitioner is a bona fide purchaser for value
21 of the right, title, or interest in the property and was at
22 the time of purchase reasonably without cause to believe
23 that the property was subject to forfeiture under this
24 Article.

25 (e) Upon application of a corruption prosecutor, the court
26 may enter a restraining order or injunction, require the

1 execution of a satisfactory performance bond, or take any other
2 action to preserve the availability of property described
3 herein for forfeiture under this Article:

4 (1) upon the filing of an indictment or information
5 charging a violation of this Article and alleging that the
6 property with respect to which the order is sought would,
7 in the event of conviction, be subject to forfeiture under
8 this Article; or

9 (2) prior to the filing of such an indictment or
10 information, if, after notice to persons appearing to have
11 an interest in the property and opportunity for a hearing,
12 the court determines that: (A) there is a substantial
13 probability that the corruption prosecutor will prevail on
14 the issue of forfeiture and that failure to enter the order
15 will result in the property being destroyed, removed from
16 the jurisdiction of the court, or otherwise made
17 unavailable for forfeiture; and (B) the need to preserve
18 the availability of the property through the entry of the
19 requested order outweighs the hardship on any party against
20 whom the order is to be entered; Provided that any such
21 order entered be effective for not more than ninety days,
22 unless extended by the court for good cause shown or unless
23 an indictment or information described herein has been
24 filed.

25 A temporary restraining order under this Article may be
26 entered upon application of a corruption prosecutor without

1 notice or opportunity for a hearing when an information or
2 indictment has not yet been filed with respect to the property,
3 if the corruption prosecutor demonstrates that there is
4 probable cause to believe that the property with respect to
5 which the order is sought would, in the event of conviction, be
6 subject to forfeiture under this Article and that provision of
7 notice will jeopardize the integrity of a corruption
8 investigation, the safety of any persons, or the availability
9 of the property for forfeiture. Such a temporary order shall
10 expire not more than 10 days after the date on which it is
11 entered, unless extended for good cause shown or unless the
12 party against whom it is entered consents to an extension for a
13 longer period. A hearing requested concerning an order entered
14 herein under this Article shall be held at the earliest
15 possible time, and prior to the expiration of the temporary
16 order. The court may receive and consider, at a hearing held
17 pursuant to this Article, evidence and information that would
18 be otherwise inadmissible under the rules of evidence, and such
19 a hearing shall be heard by the court without a jury.

20 (f) Upon conviction of a person under this Article or upon
21 the completion of appropriate civil proceedings under this
22 Article, the court shall enter a judgment of forfeiture of the
23 property to the State of Illinois and shall authorize the
24 corruption prosecutor or his or her agent to seize all property
25 ordered forfeited upon such terms and conditions as the court
26 shall deem proper. Following the entry of an order declaring

1 the property forfeited, the court may, upon application of a
2 corruption prosecutor or corruption investigator, enter such
3 appropriate restraining orders or injunctions, require the
4 execution of satisfactory performance bonds, appoint
5 receivers, conservators, appraisers, accountants, or trustees,
6 or take any other action to protect the interest of the State
7 of Illinois in the property ordered forfeited. Any income
8 accruing to, or derived from, an enterprise or an interest in
9 an enterprise that has been ordered forfeited under this
10 Article may be used to offset ordinary and necessary expenses
11 to the enterprise which are required by law, or which are
12 necessary to protect the interests of the State of Illinois or
13 third parties.

14 (g) Following the seizure of property ordered forfeited
15 under this Article, the corruption prosecutor or his or her
16 agent shall direct the disposition of the property by sale or
17 any other commercially feasible means, making due provision for
18 the rights of any innocent persons. Any property right or
19 interest not exercisable by, or transferable for value to, the
20 State of Illinois shall expire and shall not revert to the
21 defendant, nor shall the defendant or any person acting in
22 concert with or on behalf of the defendant be eligible to
23 purchase forfeited property at any sale held by the corruption
24 prosecutor or his or her agent. Upon application of a person,
25 other than the defendant or a person acting in concert with or
26 on behalf of the defendant, the court may restrain or stay the

1 sale or disposition of the property pending the conclusion of
2 any appeal of the criminal case giving rise to the forfeiture,
3 if the applicant demonstrates that proceeding with the sale or
4 disposition of the property will result in irreparable injury,
5 harm or loss to him or her. At the direction of the court, the
6 proceeds of any sale or other disposition of property forfeited
7 under this Article and any moneys forfeited shall be used to
8 pay all proper expenses consisting of the costs of the
9 corruption investigation, the prosecution thereof, and any
10 related remedial proceedings under this Article, as well as the
11 forfeiture and sale, including any expenses of seizure,
12 maintenance or custody of the property pending its disposition,
13 advertising and court costs. The corruption prosecutor shall
14 deposit in the treasury of the State of Illinois 75% of any
15 amounts of the proceeds or moneys remaining after the payment
16 of such proper expenses, which money or proceeds shall
17 thereafter be disposed of as prescribed by law, and the
18 corruption prosecutor shall retain directly the final 25% of
19 such proceeds or moneys for the general purposes of fulfilling
20 the duties of his or her office, or for equitable sharing, as
21 directed by the corruption prosecutor, among those corruption
22 investigators participating in the corruption investigation,
23 the prosecution thereof, and or any related remedial
24 proceedings under this Article.

25 (h) With respect to property ordered forfeited under this
26 Article, the court is authorized to: (1) grant petitions for

1 mitigation or remission of forfeiture, restore forfeited
2 property to victims of a violation of this Article, or take any
3 other action to protect the rights of innocent persons that is
4 in the interest of justice and that is not inconsistent with
5 the provisions of this Article; (2) compromise claims arising
6 under this Article; (3) award compensation to persons providing
7 information resulting in a forfeiture under this Article; (4)
8 direct the disposition by public sale by the corruption
9 prosecutor or his or her agent of all property ordered
10 forfeited under this Article or direct any other commercially
11 feasible means, making due provision for the rights of innocent
12 persons; and (5) take appropriate measures necessary to
13 safeguard and maintain property ordered forfeited under this
14 Article pending its disposition.

15 (i) Except as provided herein, no party claiming an
16 interest in property subject to forfeiture under this Article
17 may: (1) intervene in any trial or appeal of a criminal case
18 involving the forfeiture of such property under this Article;
19 or (2) commence an action at law or equity against the State of
20 Illinois, or against any corruption prosecutor or corruption
21 investigator, concerning the actions taken under this Article
22 or concerning the validity of an alleged interest in the
23 property subsequent to the filing of an indictment or
24 information alleging that the property is subject to forfeiture
25 under this Article.

26 (j) In order to facilitate the identification or location

1 of property declared forfeited and to facilitate the
2 disposition of petitions for remission or mitigation of
3 forfeiture, after the entry of an order declaring property
4 forfeited to the State of Illinois, the court may, upon
5 application of the corruption prosecutor, order that the
6 testimony of any witness relating to the property forfeited be
7 taken by deposition and that any designated book, paper,
8 document, record, recording, or other material not privileged
9 be produced at the same time and place, in the same manner as
10 provided for the taking of depositions in civil proceedings
11 under the laws of the State of Illinois.

12 (720 ILCS 5/33G-7 new)

13 Sec. 33G-7. Severability. If any clause, sentence, Section
14 or provision, or part of this Article or the application
15 thereof to any person or circumstance shall be adjudged to be
16 unconstitutional, the remainder of this Article or its
17 application to any person or circumstances other than those to
18 which it is held invalid shall not be affected thereby.

19 (720 ILCS 5/33G-8 new)

20 Sec. 33G-8. Construction. In interpreting the provisions
21 of this Article, the court, because of their remedial purposes,
22 shall construe them liberally. Nothing in this Article shall
23 preclude the imposition of additional criminal penalties under
24 any provision of Federal law, or the laws of the State of

1 Illinois or Another State, or any other law, or the affording
2 of any civil or administrative remedies in addition to those
3 provided for in this Article. In addition, the court shall
4 construe this Article in light of the provisions contained in
5 Title IX of Public Law 91-452, 84 Stat. 922 (as amended in
6 Title 18, United States Code, Section 1961-1968), wherever
7 substantially similar language is used in such Title and this
8 Article, but where such language indicates an intent to depart
9 from such Title, the court shall interpret the language as
10 herein provided.

11 (720 ILCS 5/33G-9 new)

12 Sec. 33G-9. Limitations. Under this Article,
13 notwithstanding any other provision of law, but otherwise
14 subject to the periods of exclusion from limitation as provided
15 in Section 3-7 of this Code, the following limitations apply:

16 (a) Any action, proceeding, or prosecution brought by a
17 corruption prosecutor under this Article must commence within 5
18 years of one of the following dates, whichever is latest: (1)
19 the date of the commission of the last occurrence of predicate
20 activity in a pattern of such activity, in the form of an act,
21 attempt, endeavor, or solicitation, underlying the alleged
22 violation of this Article; or (2) in the case of an action,
23 proceeding, or prosecution, based upon a conspiracy to violate
24 this Article, the date that the last objective of the alleged
25 conspiracy was accomplished, defeated or abandoned (whichever

1 is later); or (3) the date any minor victim of the violation
2 attains the age of 18 years or the date any victim of the
3 violation subject to a legal disability thereafter gains legal
4 capacity; or (4) the date that any alleged violation of this
5 Article, including injury, cause, pattern, or identity of the
6 violator or violators, was otherwise discovered in the exercise
7 of good faith;

8 (b) Any action, proceeding, or prosecution brought by a
9 corruption prosecutor under this Article may be commenced at
10 any time against all defendants if the conduct of any
11 defendant, or any part of the overall violation, resulted in
12 the unlawful death of any person or persons;

13 (c) Any action or proceeding brought by a private party
14 under subsection (b) of Section 33G-6 of this Article must
15 commence within 3 years of one of the following dates,
16 whichever is latest: (1) the date of the commission of the last
17 occurrence of predicate activity in a pattern of such activity,
18 in the form of an act, attempt, endeavor, or solicitation,
19 underlying the alleged violation of this Article; or (2) in the
20 case of an action, proceeding, or prosecution, based upon a
21 conspiracy to violate this Article, the date that the last
22 objective of the alleged conspiracy was accomplished, defeated
23 or abandoned (whichever is later); or (3) the date any minor
24 victim of the violation attains the age of 18 years or the date
25 any victim of the violation subject to a legal disability
26 thereafter gains legal capacity; or (4) the date that any

1 alleged violation of this Article, including injury, cause,
2 pattern, or identity of the violator or violators, was
3 otherwise discovered in the exercise of good faith.

4 Section 10. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 108A-1, 108A-3, 108A-4, 108A-5,
6 and 108B-3 as follows:

7 (725 ILCS 5/108A-1) (from Ch. 38, par. 108A-1)

8 Sec. 108A-1. Authorization for use of eavesdropping
9 device. The State's Attorney or an Assistant State's Attorney
10 authorized by the State's Attorney may authorize an application
11 to a circuit judge or an associate judge assigned by the Chief
12 Judge of the circuit for, and such judge may grant in
13 conformity with this Article, an order authorizing or approving
14 the use of an eavesdropping device by a law enforcement officer
15 or agency having the responsibility for the investigation of
16 any felony under Illinois law where any one party to a
17 conversation to be monitored, or previously monitored in the
18 case of an emergency situation as defined in this Article, has
19 consented to such monitoring.

20 The Chief Judge of the circuit may assign to associate
21 judges the power to issue orders authorizing or approving the
22 use of eavesdropping devices by law enforcement officers or
23 agencies in accordance with this Article. After assignment by
24 the Chief Judge, an associate judge shall have plenary

1 authority to issue such orders without additional
2 authorization for each specific application made to him by the
3 State's Attorney until such time as the associate judge's power
4 is rescinded by the Chief Judge. The Chief Judge of the
5 circuit, or any circuit judge or an associate judge assigned by
6 the Chief Judge, shall remain available on an expedited basis
7 to review applications and issue orders authorizing or
8 approving the use of eavesdropping devices in accordance with
9 this Article during non-business hours.

10 (Source: P.A. 92-413, eff. 8-17-01.)

11 (725 ILCS 5/108A-3) (from Ch. 38, par. 108A-3)

12 Sec. 108A-3. Procedure for Obtaining Judicial Approval of
13 Use of Eavesdropping Device. (a) Where any one party to a
14 conversation to occur in the future has consented to the use of
15 an eavesdropping device to overhear or record the conversation,
16 a judge may grant approval to an application to use an
17 eavesdropping device pursuant to the provisions of this
18 section.

19 Each application for an order authorizing or subsequently
20 approving the use of an eavesdropping device shall be made in
21 writing upon oath or affirmation to a circuit judge, or an
22 associate judge assigned for such purpose pursuant to Section
23 108A-1 of this Code, and shall state the applicant's authority
24 to make such application. Each application shall include the
25 following:

1 (1) the identity of the investigative or law enforcement
2 officer making the application and the State's Attorney
3 authorizing the application;

4 (2) a statement of the facts and circumstances relied upon
5 by the applicant to justify his belief that an order should be
6 issued including: (a) details as to the felony that has been,
7 is being, or is about to be committed, or a brief statement of
8 the nature of the felony investigation; (b) a description of
9 the type of communication sought to be monitored; (c) the
10 identity of the party to the expected conversation consenting
11 to the use of an eavesdropping device; (d) the identity of the
12 person, if known, whose conversations are to be overheard by
13 the eavesdropping device;

14 (3) a statement of the period of time for which the use of
15 the device is to be maintained ~~or, if the nature of the~~
16 ~~investigation is such that the authorization for use of the~~
17 ~~device should not terminate automatically when the described~~
18 ~~type of communication is overheard or recorded, a description~~
19 ~~of facts establishing reasonable cause to believe that~~
20 ~~additional conversations of the same type will occur~~
21 ~~thereafter;~~

22 (4) a statement of the existence of all previous
23 applications known to the individual making the application
24 which have been made to any judge requesting permission to use
25 an eavesdropping device involving the same persons in the
26 present application, and the action taken by the judge on the

1 previous applications.†

2 ~~(5) when the application is for an extension of an order, a~~
3 ~~statement setting forth the results so far obtained from the~~
4 ~~use of the eavesdropping device or an explanation of the~~
5 ~~failure to obtain such results.~~

6 ~~(b) The judge may request the applicant to furnish~~
7 ~~additional testimony, witnesses, or evidence in support of the~~
8 ~~application.~~

9 (Source: P.A. 86-391.)

10 (725 ILCS 5/108A-4) (from Ch. 38, par. 108A-4)

11 Sec. 108A-4. Grounds for Approval or Authorization. The
12 judge may authorize or approve the use of the eavesdropping
13 device where it is found that:

14 (a) one party to the conversation has or will have
15 consented to the use of the device;

16 (b) the use of the device is relevant to an ongoing felony
17 investigation or otherwise facilitates the safety of any person
18 conducting or assisting in such felony investigation; and there
19 is reasonable cause for believing that an individual is
20 committing, has committed, or is about to commit a felony under
21 Illinois law;

22 ~~(c) there is reasonable cause for believing that particular~~
23 ~~conversations concerning that felony offense will be obtained~~
24 ~~through such use; and~~

25 (c) ~~(d)~~ for any extension authorized, that further use of a

1 device is warranted on similar grounds.

2 (Source: P.A. 79-1159.)

3 (725 ILCS 5/108A-5) (from Ch. 38, par. 108A-5)

4 Sec. 108A-5. Orders Authorizing Use of an Eavesdropping
5 Device.

6 (a) Each order authorizing or approving the use of an
7 eavesdropping device shall specify:

8 (1) the identity of the person who has consented to the
9 use of the device to monitor any of his conversations and a
10 requirement that any conversation overheard or received
11 must include this person;

12 (2) the identity of the other person or persons, if
13 known, who will participate in the conversation;

14 (3) the period of time in which the use of the device
15 is authorized, ~~including a statement as to whether or not~~
16 ~~the use shall automatically terminate when the described~~
17 ~~conversations have been first obtained.~~

18 (b) No order entered under this section may authorize or
19 approve the use of any eavesdropping device for any period
20 longer than 30 days. An initial or a subsequent extension, in
21 no case for more than 30 days each, of an order may be granted
22 but only upon application made in accordance with Section
23 108A-3 and where the court makes the findings required in
24 Section 108A-4.

25 (Source: P.A. 92-413, eff. 8-17-01.)

1 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

2 Sec. 108B-3. Authorization for the interception of private
3 communication.

4 (a) The State's Attorney, or a person designated in writing
5 or by law to act for him and to perform his duties during his
6 absence or disability, may authorize, in writing, an ex parte
7 application to the chief judge of a court of competent
8 jurisdiction for an order authorizing the interception of a
9 private communication when no party has consented to the
10 interception and (i) the interception may provide evidence of,
11 or may assist in the apprehension of a person who has
12 committed, is committing or is about to commit, a violation of
13 Section 8-1(b) (solicitation of murder), 8-1.2 (solicitation
14 of murder for hire), 9-1 (first degree murder), 10-9
15 (involuntary servitude, involuntary sexual servitude of a
16 minor, or trafficking in persons for forced labor or services),
17 11-15.1 (soliciting for a minor engaged in prostitution), 11-16
18 (pandering), 11-17.1 (keeping a place of juvenile
19 prostitution), 11-18.1 (patronizing a minor engaged in
20 prostitution), 11-19.1 (juvenile pimping and aggravated
21 juvenile pimping), or 29B-1 (money laundering) of the Criminal
22 Code of 1961, Section 401, 401.1 (controlled substance
23 trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of
24 the Illinois Controlled Substances Act or any Section of the
25 Methamphetamine Control and Community Protection Act, a

1 violation of Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3,
2 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6),
3 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the
4 Criminal Code of 1961, or an offense listed as predicate
5 activity under subsection 33G-3(c), or conspiracy to commit
6 money laundering or conspiracy to commit first degree murder;
7 (ii) in response to a clear and present danger of imminent
8 death or great bodily harm to persons resulting from: (1) a
9 kidnapping or the holding of a hostage by force or the threat
10 of the imminent use of force; or (2) the occupation by force or
11 the threat of the imminent use of force of any premises, place,
12 vehicle, vessel or aircraft; (iii) to aid an investigation or
13 prosecution of a civil action brought under the Illinois
14 Streetgang Terrorism Omnibus Prevention Act when there is
15 probable cause to believe the interception of the private
16 communication will provide evidence that a streetgang is
17 committing, has committed, or will commit a second or
18 subsequent gang-related offense or that the interception of the
19 private communication will aid in the collection of a judgment
20 entered under that Act; or (iv) upon information and belief
21 that a streetgang has committed, is committing, or is about to
22 commit a felony.

23 (b) The State's Attorney or a person designated in writing
24 or by law to act for the State's Attorney and to perform his or
25 her duties during his or her absence or disability, may
26 authorize, in writing, an ex parte application to the chief

1 judge of a circuit court for an order authorizing the
2 interception of a private communication when no party has
3 consented to the interception and the interception may provide
4 evidence of, or may assist in the apprehension of a person who
5 has committed, is committing or is about to commit, a violation
6 of an offense under Article 29D of the Criminal Code of 1961.

7 (b-1) Subsection (b) is inoperative on and after January 1,
8 2005.

9 (b-2) No conversations recorded or monitored pursuant to
10 subsection (b) shall be made inadmissible in a court of law by
11 virtue of subsection (b-1).

12 (c) As used in this Section, "streetgang" and
13 "gang-related" have the meanings ascribed to them in Section 10
14 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

15 (Source: P.A. 95-331, eff. 8-21-07; 96-710, eff. 1-1-10;
16 96-1464, eff. 8-20-10.)

17 Section 15. The Statewide Grand Jury Act is amended by
18 changing Section 3 as follows:

19 (725 ILCS 215/3) (from Ch. 38, par. 1703)

20 Sec. 3. Written application for the appointment of a
21 Circuit Judge to convene and preside over a Statewide Grand
22 Jury, with jurisdiction extending throughout the State, shall
23 be made to the Chief Justice of the Supreme Court. Upon such
24 written application, the Chief Justice of the Supreme Court

1 shall appoint a Circuit Judge from the circuit where the
2 Statewide Grand Jury is being sought to be convened, who shall
3 make a determination that the convening of a Statewide Grand
4 Jury is necessary.

5 In such application the Attorney General shall state that
6 the convening of a Statewide Grand Jury is necessary because of
7 an alleged offense or offenses set forth in this Section
8 involving more than one county of the State and identifying any
9 such offense alleged; and

10 (a) that he or she believes that the grand jury
11 function for the investigation and indictment of the
12 offense or offenses cannot effectively be performed by a
13 county grand jury together with the reasons for such
14 belief, and

15 (b) (1) that each State's Attorney with jurisdiction
16 over an offense or offenses to be investigated has
17 consented to the impaneling of the Statewide Grand
18 Jury, or

19 (2) if one or more of the State's Attorneys having
20 jurisdiction over an offense or offenses to be
21 investigated fails to consent to the impaneling of the
22 Statewide Grand Jury, the Attorney General shall set
23 forth good cause for impaneling the Statewide Grand
24 Jury.

25 If the Circuit Judge determines that the convening of a
26 Statewide Grand Jury is necessary, he or she shall convene and

1 impanel the Statewide Grand Jury with jurisdiction extending
2 throughout the State to investigate and return indictments:

3 (a) For violations of any of the following or for any
4 other criminal offense committed in the course of violating
5 any of the following: Article 29D of the Criminal Code of
6 1961, the Illinois Controlled Substances Act, the Cannabis
7 Control Act, the Methamphetamine Control and Community
8 Protection Act, the Narcotics Profit Forfeiture Act, or the
9 Cannabis and Controlled Substances Tax Act; a streetgang
10 related felony offense; Section 24-2.1, 24-2.2, 24-3,
11 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection
12 24-1(a) (4), 24-1(a) (6), 24-1(a) (7), 24-1(a) (9),
13 24-1(a) (10), or 24-1(c) of the Criminal Code of 1961; or a
14 money laundering offense; or any violation of the
15 Corruption Influenced and Criminal Organizations Law;
16 provided that the violation or offense involves acts
17 occurring in more than one county of this State; and

18 (a-5) For violations facilitated by the use of a
19 computer, including the use of the Internet, the World Wide
20 Web, electronic mail, message board, newsgroup, or any
21 other commercial or noncommercial on-line service, of any
22 of the following offenses: indecent solicitation of a
23 child, sexual exploitation of a child, soliciting for a
24 juvenile prostitute, keeping a place of juvenile
25 prostitution, juvenile pimping, or child pornography; and

26 (b) For the offenses of perjury, subornation of

1 perjury, communicating with jurors and witnesses, and
2 harassment of jurors and witnesses, as they relate to
3 matters before the Statewide Grand Jury.

4 "Streetgang related" has the meaning ascribed to it in
5 Section 10 of the Illinois Streetgang Terrorism Omnibus
6 Prevention Act.

7 Upon written application by the Attorney General for the
8 convening of an additional Statewide Grand Jury, the Chief
9 Justice of the Supreme Court shall appoint a Circuit Judge from
10 the circuit for which the additional Statewide Grand Jury is
11 sought. The Circuit Judge shall determine the necessity for an
12 additional Statewide Grand Jury in accordance with the
13 provisions of this Section. No more than 2 Statewide Grand
14 Juries may be empaneled at any time.

15 (Source: P.A. 94-556, eff. 9-11-05.)

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